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International Court of Justice

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FINAL PLEADING

for

ALBERT SPEER

before the

INTERNATIONAL MILITARY TRIBUNAL

at NUERNBERG

IN THE TRIAL

against Hermann Goering and others

presented by

Dr. Hans FLAECHNER

Defense Counsel for the defendant SPEER.

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The Prosecution has charged defendant SPEER with violations of all 4 points of the indictment, which essentially coincide with the stipulations of Par. 6a - c). The French Prosecution which has substantiated more definitely the individual charges against defendant SPEER desists from charging defendant SPEER with a violation of Par. 6a) of the Statute of the Penal Code and demands only the application against SPEER of Par. 6b and c). However, since the legal concept of conspiracy during the oral proceedings has frequently been clarified by referring to the person of the defendant SPEER, and since the assertion was set forth that the defendant SPEER also had made himself guilty within the meaning of the Penal Code paragraph of a violation of fig. 6a) of the Statute, the details must be entered into by way of precaution.

The defendant SPEER has therefore, been charged with the planning, preparations, launching and conduct of a war of aggression or a war violating international treaties, and this, indeed, at a time when the defendant assumed the office of Minister of Armaments, which was expanded to a Ministry for Armament and War Production 1½ years later, when the German Reich was at war with all countries, to which she capitulated in May 1945. At the time the defendant assumed Government affairs, all the facts mentioned under Par. 6a) had altogether taken place and defendant SPEER's activity did not alter the actually existing situation to the slightest extent.

The defendant had not contributed in the least to bring about this situation. His previous activity was that of an architect, who occupied himself exclusively with peace time construction and did not contribute by his activity, either toward preparation nor launching of a war violating international treaties. (Compare Doc. 1435-PS US Exh. 216, p 29). If under the circumstances which Par. 6a) of the Statute materially and legally characterizes as a punishable act it were a case of generally prevailing international law.

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and if individual culpability of persons who bring about these facts of the case were generally recognized in international law defendant SPEER in my opinion could still not be held responsible for these facts, for not the slightest evidence has been produced during the proceedings that SPEER contributed towards bringing about these facts. In this connection we must consider that culpability of an attitude requires that the person in question must have contributed in some way or other towards the bringing about of the facts which have been declared punishable, i.e. he must have caused the result which was declared punishable to be brought about. If, however, as in the case under consideration, defendant SPEER entered the Government without having contributed anything at all towards the so-called crimes against peace, he cannot be charged with criminal responsibility for this, even if such responsibility could be applicable to other members of the government. The Prosecution used the expression that the defendant had accepted and .or approved the preceding crimes against peace by joining the government. SSuch a concept taken from the field of civil law cannot be applied to criminal law. Criminal law applies only to circumstances consisting of actions which serve to bring about the circumstances declared punishable. Nor is this altered by the introduction of the legal concept of conspiracy. In this connection reference may be made to Dr. STAHMER's detailed statement on conspiracy. The legal views set forth in that statement are also made the subject of my detailed statement. In order to avoid repetition, reference is made to it, as well as to the full statements of Prof. JAHRREISS. It can, therefore, be confirmed that defendant SPEER cannot be charged with a so-called crime against peace.

The personal interrogation of the defendant and the cross-examination regarding his activity have shown that, SPEER by virtue of his position as architect, exercized exclusively architectural - artistic functions also in the Party set-up, SPEER was the commissioner

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for construction in the HEWSS staff; here it was a matter of a purely technical task, which had nothing at all to do with any form of preparation for war, The Party, which strove to seize and influence all the vital functions of the people, had created the position of commissioner for construction, to execute and shape the Party structures uniformly. For their construction projects, the regional leaders of the NSDAP (Gauleiter) and the other Party offices were to apply to this office for consultation; however, they availed themselves of this only to a very slight extent. Naturally it was a purely architectonic task, when the Party acted as person for whom building was performed (Bauherr). It strove to give its buildings a uniformly representative character. Considering the peculiarity of architectionic will to fashion things, each architect naturally pursues his own intentions in solving the problems put to him. The activity of the defendant as commissioner for construction was therefore relatively restricted and of secondary importance, since he did not even have an apparatus of his own at his disposal. It would be erroneous to try to assume therefrom any participation on the part of the defendant in any crimes against the peace. The same holds true for the defendant's remaining functions prior to and during the war up to his assumption of office as minister (Compare Spe. Exhibit 1). When the defendant was given the job of reshaping the appearance of the towns of Berlin and Nuernberg, this activity had nothing at all to do with any crime against the peace; on the contrary, his activity was rather to be regarded as an prevention of war preparations, as this task of his required raw materials and equipment to a very great extent, from which rearmament might otherwise have benefited directly or indirectly. The construction projects assigned to SPEER were, moreover, calculated and planned far ahead. They could only cause the impression in SPEER that HITLER reckoned with a long period of peace. It is therefore, out of the question for the defendant prior to his assumption of office as Reich Minister to have contributed directly or indirectly to the realization of facts, which are characterized by Par. 6a) of the Statute as crimes against peace. The fact too, that the defendant was a member of the Reichstag from 1941, cannot be quoted in support by the Prosecution, because

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as the Prosecution itself pointed out, the Reichstag in the authoritarian regime has sunk to complete insignificance and had become merely an institution that accepted and applauded the Fuehrer's decisions. In this respect also responsibility for the guilt of war is out of the question, for no activity what ever of the Reichstag is recognizable in extension of the war to the Soviet Union and the United States.

The special French Prosecution, therefore, justly desisted from reproaching the defendant with an offence against Par. 6a) of the Statute.

The Prosecution further charges defendant SPEER with having participated during his term of office through the fact, that workers were transferred against their will from the occupied countries to Germany, where they were employed for the purpose of the conduct of war or production of war material. It should be said in this connection:

The Prosecution reproaches the defendant with violations of Par. 52) of the Hague Convention on Land Warfare insofar as according to this convention services can be demanded of nationals of the occupied country only for the necessities of the occupation army; moreover, they have to be in proportion to the resources of the country and must not imply the obligation of the persons concerned, to take part in military actions against their native land. The Hague convention on land warfare establishes in Par. 2) that all countries participating in the war in question must have joined it (General participation clause). The Soviet Union not having entered into the Convention on Land Warfare, the latter could be applicable to the conditons created by the war against the Soviet Union only if the legal principles laid down in the Convention could be considered as universally valid international law. Above all we have, therefore, to start from the principle that a different legal judgment has to be applied to those areas belonging to states that were partners of the Hague Convention on Land Warfare, and for such areas whose states are not to be regarded as treaty partners.

In examining the question, the point is to be determined whether deportation of laborers from territories

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occupied in war-time by an enemy power can be justified in virtue of Art. 52) of the HLO. Art 52) constitutes a limitation of Art. 46) of the HLO, inasmuch as the principle is stipulated that fundamentally the population of occupied territories and their property are to be involved as lettle as the necessities of war will allow. Starting from this principle, it is now necessary to examine whether, in virtue of it, a deportation for the purpose of securing labour potential for the essential war economy of a belligerent country is prohibited to any extent. In this respect, the question must be considered, and it makes a difference whether the deportation carried out by the occupying belligerent State is in accordance with conventions agreed upon with the Government of the country occupied by the belligerent State. The Prosecution have defended the view that such conventions are legally void because they were made under the constraint of occupation, and because the Government existing in France during the time of occupation could not be considered as representative of the French Nation.

The first point of view cannot support the contention of the Prosecution. International juridical conventions will always be influenced in their contents by the respective centers of gravity of the contracting parties. In every peace treaty concluded between a victor and a vanquished State, this proportion of centers of gravity will be reflected in the contents. This is not, however, contrary to the nature of treaties.

The second point, in virtue of which the Prosecution rejects the plea of an agreement between the German and existing French government, relative to the assignment of labour potential, is equally ineffectual. The so-called Vichy Government existing at the time was the only Government existing in French metropolitan territory: it was the lawful successor of the government in office before the occupation, and internationally acknowledged by the fact that states then not yet involved in the war preserved diplomatic relations with it.

Moreover, it cannot be taken for granted that the disposition manifested in the conventions by the French

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Government to cooperate with the then victorious German Reich was in contradiction to the genuine popular opinion of the French Nation. Reference can be made in this respect to Document R 124, page 34 of my Dokument Book. Particular attention must be given here to the economical situation of occupied France at the time. After France's withdrawal from hostilities, the whole of French metropolitan territory was included in the total blockade, with the result that those raw materials not home produced were no longer forthcoming, and production came to a standstill. Thus, a considerable proportion of the French productive potential was put out of action and a number of workers deprived of a living. Moreover, the French Government did not pledge itself to an unreserved dispatch of labour potential to Germany, but subordinated this to compensational provisions such as the liberation of prisoners of war etc.

Whether, and in what measure, the expectations which conditioned the conclusion of the convention by the French Government were actually fulfilled, is immaterial to the matter of determining whether the conventions in question were authentic treaties or not. That these agreements have the character of a treaty cannot be juridically doubted. In virtue of them, the accusation of the Prosecution that the removal of workers from the occupied French territories was carried out against their will and therefore illegally, can have no justification. Agreements such as those concluded between the German and French Governmental departments cannot be introduced as a criterion for the judgment of the legal background relative to the workers from Belgium and Holland, since in these countries the Government had deserted and consequently there was no existent political authority. The remaining General Secretaries of the Government could not be considered as Government representatives and the decrees, in virtue of which the dispatch of workers to Germany was carried out, were enacted on the directive of the Reich Commissioner in the person of the Military Commander -in- Chief.

That particular rules must apply to those countries and to the dispatch of labourers effected by them

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has already been explained by Dr. STEINBAUER in his exposition concerning the activity of defendant SEYSS-INQUART in Holland. To avoid repetition, I refer you to these explanations.

Where the Eastern countries are concerned, we must start from the principle that the Soviet Union did not become a contracting party to the HLO. It remains, however, to be examined whether the principle set down in Art. 46, of the HLO with reference to the treatment of civilians in war, and in the case of occupati of a belligerent country by the enemy, is not be considered as a universally valid International Law and therefore applicable even if the bellogerent country concerned is not specifically party to the HLO. On examination of this question, the deportation of workers from occupied territories would prove to be illegal, which means that a particular circumstance must come up to cancel this illegalit

The case of emergency stipulated by International Law can be considered as one such circumstance. Of course, the theory International Law is controversial as to whether and in what measure such an emergency can legalise an intrinsicall illegitimate practice, but the admissibility of such an emergency must be envisaged in those cases when the State is fighting for its bare existence.

After the unconditional capitulation of Germany had been made the declared goal of the Allies, such a state of emergency was to be considered by the German State as having arisen, since there remained no doubt but that it was the intention of the enemy to destroy the German State to its very foundations.

Indeed, this emergency can be considered to have been already existent at an earlier stage, after it had become clear that the war had ceased to be, as conceived by the HLO, a settlement of differences between two States, and become a war in which it was sought, not only to strike at the fighting forces of the belligerents but primarily the economic forces of the belligerent Nations, and thereby what is termed as their war potential. The HLO rests upon a conception of war which was overwhelmed in the first World War and much more so in the second World War. If in the first World War the belligerents

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sought to strike at each other's economy by blockade and counter-blockade, in the second World War they have moreover, in addition to the more indirect effect of blockade, introduced direct damaging action against the enemy by the destruction of its production installations by means of aerial war. Against the conception of war at the base of the HLO, a complete change has come about. In view of the consideration that a country can only resist a technically well equipped adversary if it has, itself, at its disposal a potential of uninterrupted production, the object of this war was primarily to destroy this productive potential of the adversary. This was the aim of the British blockade, not only of Germany but of every country in the German sphere of inlfuence. Dr. KRANZBUEHLER has already discussed the questions related to this subject. Reference can be made to his statement as for as it is concerned.

Accordingly, aerial war was primarily waged, not only to include the regions belonging to the German national territory but also to destroy the production potential and possibilities eristing in the occupied territories. Aerial war, with continuous air raids, was directed against economic targets in France, Belgium and Holland, the Czech Territories, Poland, Austria, and had as its further aim the interruption and putting out of action of the whole communications system, not only on the front and its immediate rear but hundreds of kilometers behind it, with the purpose of paralysing the adversary's vital functions. The air offensive of the Allies against Japan is particularly clearly indicative of this. This war overlapped the bounds of the HLO. It does not make any more difference between the national territory of the adversary and the occupied territories which are likewise included in the enemy blockade. In this war, which made it its purpose to destroy not only the national existence but the economic productive capacity of the adversary, one can speak of a real national emergency. When defendant SPEER was appointed Minister, the economic war we have just described was in full swing on either side. It was indeed the task of SPEER's department to solve just the production problems resulting from it. Thus, SPEER was

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placed in the middle of this economic war. It must be further examined whether and to what extent the measures taken on the German side were expedient in remedying the state of emergency.

In the course of the trial, the Prosecution had claimed on several occasions that the imported labor was intended to be used as labor for service at the front. This is certainly one of the points of view which induced Germany to resort to foreign workers, but it is by no means the only valid, not even indeed the overwhelmingly decisive point of view. It is a fact that the total blockade of the German Reich carried out by the adversary compelled the Reich to an increasing extent to build plants for the production of substitutes in order to carry on the war in its now definitely technical form. It is another fact that the disturbances of economic life caused by aerial warfare made it necessary to resort to an increasing use of labor. Merely as an example, allow me to mention how much additional labor was necessary for the repair of air raid damage. This situation involved a state of emergency, inasmuch as the pursuit of a war of self-preservation would not have been possible without the erection of such additional production plants.

Should it be conteded that there is no point in speaking of an emergency cancelling the illegality of the proceedings since the War was begun as a war of agression and was therefore illegal from the outset, the answer is that, as far as defendant SPEER is concerned, this much may be said in his favor, that he believed in the existence of such a state of emergency and had reason to do so. The examination of evidence has revealed that the backgrounds of the origin of the war, so far as they have been exposed here by the Prosecution, were not known to most of the defendants, but least of all to defendant SPEER.

Insofar as the deportation of foreign workers to the Reich constitutes an objectively illegal measure according to International Law, it remains to be examined what share

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f it can be charged to SPEER. At his interrogation, prior to the beginning of the Triol on 18 October 1945, defendant SPEER has admitted having known that, at least as for back as September 1942, foreign workers had reased to come voluntarily to the Reich. He said he had countenanced the compulsory measur because there was no other possibility of meeting the labor requirements in a different way. It must be concluded from this declaration that the defendant was convinced of the necessity of this emergency measure. Subjectively, it must therefore be considered in his favour that he believed in the existence of such a state of emergency excluding illegality. But in the first place it must be examined, as to what extent defendant SPEER has actually contributed to the institution of deportations to Germany. In this respect, we must start from th principle that defendant SPEER had a purely technical task which he has sufficiently described in his evidence. Reference can be made thereto. For the fulfilment of his task, he stated his labour requirements. How these requirements were met has been told in detail by witnesses SCHIEBER and SCHMELT Requirements were submitted as a whole and it was incumbent upon defendant SAUCKEL to satisfy them. These requirements included the totality of labour required, and it was the condefendant SAUCKEL's task to meet these requirements according to possibilities and to his best judgment. It was for him to carry out an exhaustive round-up of domestic labour potential as well as the procurer of foreign labour. That defendant SPEER made it a point to procure German labo in the first place for the tasks to be carried out by him and for which he was commissioned by the Government, has been told by witnesses SCHIEBER and KEHRL (Doc. Book II, Pages 109,115,117,118.129) as their interrogation. That the satisfaction of his labour demands for the achievement of his task; the increa of armament production, was admittedly of considerable though not decisive importance, is evidenced by the testimony of witness SAUR (Document Book II p. according to which

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an increase of 4 to 4.9. million workers was achieved for the armament finishing industry (for the whole armament industry) during the defendants activity as Armament Minister, whilst the pr duction of armament parts increase in the proportion of 5 1/2 and up to 7 in many departments. It must therefore be b rn in mind that the increase of armament production incumbent upon defend SP ER was primarily achieved, not through increase of labour potential, but thanks to technical and organisational measures. It must be once more inferred from this that, for the defendant, procurement of labour potential was admitted an important though not the decisive element in the carrying out of the task assigned to him. The defendant has quite plausibly stated that he had demanded workers from SAUCKEL but that he had insisted upon having German workers first. In the defendant's opinion, the increase of labor potential in the economic sector controlled by him could have been achieved without resorting to foreign labour to the extent in which it was done. The measures taken by the defendant for the purpose of preventing the deportation of workers from the West into the Reich have been adequately described by the evidence. In taking these measures, namely the removal of consumer goods production and manufacture of vital armament parts such as, for instance, forged parts, railway equipment etc. to the Wetsern countries and installation of protested industries there, SPEER was actuated by the knowledge that the conscription of workers from France as well as from Belgium would be stopped. The consequence of his talks with the French Minister Bicholonne was, as the defendant explained at his interrogation practically the end of the deportation of workers to Germany. The results have accurately described by the General Labour Commissioner at the session of the Central Planning Board on the 1 March 1944 (bf. p. 32/33 SPEER Doc. Book). In spite of every resistance opposed to this policy (Cf. SAUCKEL's letter to HIT dated 17 March 1944, Doc. 3819 PS) SPEER persevered in his purpose. The report HITLER's conference on 4.1.1944 submitted by the Prosecution under No. 556-PS shows too, by the decision adopted, that the protected industries, the abolitio of which SAUCKEL tried to obtain, were to remain inaccessible to seizure by SAUCKEL's labour conscription.

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(compare also SPEER Exhibit 10, page 26) SPEER wanted to employ French workers in France, in the effort to transfer production of consumer goods and products which did not represent arms production to the occupied Western territories. He wished to utilize for armament production the German workers, made available through the closing down of German plants. (Document R 124, pp 33/34 of SPEER document book). In this manner he was able to increase production, because German workers as a result of elimination of language difficulties, could more easily be retrained and because food difficulties were eliminated. (Compare KEHRL, page 110, SPEER document book, answer to question 9).

The result of this policy was that the workers of the Western areas were preponderantly used in the production of civilian goods, but not in armament production.

On the question of employment of foreign labor in the protected industries it must also be said: The statute is derived from two factual circumstances: deportation for forced labor and forced labor itself. Compulsory labor in France was ordered through a decree of the French Government. According to international law there could be no objection to this, unless one would take the position that the French Government was not entitled to take such measures and issue such decrees. As was deposed by defendant SPEER, French economic leadership obtained its independence through the agreement with BICHELONNE, naturally with the restrictions which resulted from the agreement. As established by BUECKS (document book I, page), co-worker of defendant SAUCKEL, from the protected industries of France 20% went to French economy, on the other hand more than 40% went from consumer goods industry into French hands. This shows that the French armaments industry did not manufacture weapons and direct implements of war, for the German authorities would surely not have left them to the French offices. If in the session of 20 June 1946, the Tribunal summarized its misgivings as to the manner in which we presented our evidence, to the effect that purposeful questions were irrelevant, then the viewpoint of the defense on the contrary may be established that this speech is only for the purpose of clarifying the question of legality clear If the French

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Government was justified in decreeing compulsory labor service and if plants, employing French workers on the basis of this decree or on the basis of voluntary labor contracts, were provided with orders on German accounts, no legal objection couldbbe raised. The establishment of protected industries which hindered withdrawal of laborers and their transfer to Germany, and the removal of some individual branches of production to France, Belgium and Hollan led to the objective of satisfying the requirements of German Economy in a legally unobjectionable manner.Although defendant SPEER did not completely check the transfer of workers, he nevertheless did succeed in decreasing their commitment appreciably. Instead of the policy of transplanting foreign workers to th Reich, which was pursued by other Reich offices, the defendant pursued the objective of committing the labor for his purposes in their homeland. (SPEER Exhibit 9, page 24 and SPEER Exhibit 11, page 27 of the SPEER document book). To this extent he worked against the tendency of deporting workers from their homeland.

In order to prove the assertion that SPEER had decisively participated in the intensification of deportation for forced labor, the prosecution refers to document 556-PS which represents a file memo by SAUCKEL, concerning a telephone conversation with SPEER on 5 January 1943. In contrast to this, the copy of th Fuehrer protocol of 3 to 5 Jan.43, which was the object of the telephone conversation, has been submitted. Even if here also sharp remarks by HITLER are repeated it nevertheless does not reveal the tendency which was noted by SAUCKEL in hi file memo. The defendant SPEER was already at that time on bad terms with SAUCKEL. The order issued to SPEER in this Fuehrer protocol for the management of the French armament industry, gave him a pretext for the establishment of protected industries. The termination of labor commitment from France was ther by accomplished, consequently, therefore, the opposite of what the prosecution would like to prove. Reference must be made hereby to document book RF 22. Ther it is confirmed that due to the SPEER-EICHELONNE agreement, labor commitment to Germany as of October 1943 had been decreased about 1/10. (compare page 41 SPEER document book).

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In weighing the question as to what extent this exonerates the defendant, i is of no importance whether he acted in such a way for reasons of expediency, o because he considered the other procedure as illegal. What solely matters in this case is the success which actually brought to an essential standstill the transfer of labor forces to Germany, as evident from the document quoted RF 22. It is finally evident from the Fuehrer Protocol of 19/22 June 1944, SPEER Exhi 12, page 19 of Doc.Book SPEER, and the testimony of SEYSS-INQUART (11 June 46) that in spite of the loss of industry in the Western territories and the intent of other Departments to bring the unemployed workers to Germany, SPEER carried through the maintenance of his protected industries, and that the plan of furt commitment of foreign workers in Germany collapsed definitely. The duty to examine the measures of SAUCKEL as to their international legal admissibility cannot be invoked in the case of the defendant SAUCKEL and this for the following reaso

When he took over his post in the year 1942, the transfer of foreign labo to Reich Territory had already been practiced for some time. He relied on the assumption that the legal foundations for these measures had been examined befo their introduction. He did not have the legal duty of examining independently the legal basis; he could rely on the assumption that the offices handling labo commitment had examined the legal basis of their activity. He had it confirme to him repeatedly by the Plenipotentiary for Labor in the course of his activi that the transfer of labor to the Reich was carried out strictly within legal limits. He could rely on it that the authorities charged by the State directio with the tasks of procurement of labor would on their part examine the measures carried out by them for the execution of these tasks as to their legal admissi lity. The activity of the defendant within the framework of the State direction could, if transferred to civil law, be compared with that of the technical Work Manager of a factory, where SAUCKEL's position would correspond to that of a director of the personnel office. In such a case the technical Works Manager' duty is not to examine if and to what extent the employment contracts conclude with the individual workers conform to legal regulations.

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he has only to see to it that the labor forces put at his disposal to carry out his tasks are being employed in the right place in the right manner. This canno be countered with the argument that the defendant SAUCKEL merely considered himself as the deputy of the defendant SPEER. This would not present a just pictu of the distribution of tasks between the two co-defendants as carried out by th State direction. The fact cannot be overlooked, that of all the sectors which put in their requisitions to the defendant SAUCKEL, the ones presented by the defendant SPEER were the most important for the conduct of the war, and therefo had priority over the others. This does not mean, however, that it was SAUCKE duty to satisfy absolutely all the demands of the sector represented by SPEER before all the others. He did not do this, as evident from the collective evidence, particularly the testimonies of the witnesses SCHIEBER (Doc.book II, p. 114) and KEHRL (Doc.book I, p. 106), and could not even do this, as the demands of the other sectors, which were all designated as "Bedarfstraeger" (users), were very often equally urgent, and the labor potential at hand was not sufficient to fill all the demands equally. Had SAUCKEL not been more than a "deputy of SPEER", a tool who had only to carry out the instructions of SPE the profound differences between the two could never have come into existance.

It has been emphasized by the Prosecution that the appointment of the defendant SAUCKEL as Plenipotentiary for Labor was made possible through the intervention of the defendant SPEER, and that this gave reason to believe that SAUCKEL had been more or less a tool of the defendant SPEER, or depended on hi to a large extent. This assumption does not correspond with the facts.

When he assumed his functions as Armament Minister, the defendant SPEER discovered that the procurement of labor for the plants which had up to then be carried out by the Ministry of Labor could not fill the demands made on them.

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This activity represented, within the frame-work of the Ministry of Labor, only a small fraction of its overall functions.

The defendant SPEER declared in the course of his interrogation, that the Ministry of Labor could not overcome sufficiently the tendencies of the Gauleiters in their various "Gaue" (districts), because every Gauleiter had the ambition to prevent the transfer of workers from his Gau to another to the best of his ability. The department of the Ministry of Labor, with its pure red-tape, did not appear to be capable of this task, and the suggestion was made to the State direction to charge a Gauleiter with this mission. The demand connect with this suggestion of SPEER, namely to put the Gauleiter charged with the procurement of labor, under him, was not granted by the State direction, and this because of other existing competencies. The person proposed by SPEER was also turned down, and the defendant SAUCKEL appointed instead. Therefore only organizational reasons were involved in SPEER's endeavors to create a Plenipotentiary of Labor, the purpose of which consisted in overcoming the above-mentioned opposition directed against the activity of the Labor Procurement Office of the Ministry of Labor. To draw from these facts the conclusion that the defendant SPEER was responsible for all the measures ordered by the defendant SAUCKEL, would be erroneous.

The fact that the defendant participated in the sessions as a member of the Central Planning Board, in the course of which the problem of the Procurement of Labor was discussed, cannot be used to support the claim of the Prosecution. The Prosecution attempts to prove, as a result of the session of the Central Planning Board that the defendant SPEER had played a leading part in the procurement of labor from foreign countries. To counter this the following must be stated: The Prosecution has only submitted the texts of the Minutes of the Central Planning Board i.e., the Minutes which were taken down regarding the course of the session, but not the decisions which were made on the basis of this session.

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These are, however, decisive. As, however, all the defendant SPEER's reports include also resolutions of the Central Planning Board and contain notes placed at the disposal of the Allied authorities, it would have been easy for the Prosecution to present such conclusions, from which a decisive cooperation of the defendant in the procurement of labour could be deduced. Such conclusions do not exist, however, and cannot therefore be drawn from the fact that at the conferences of the Central Planning Board question of labour mobilization were mentioned which the Central Planning Board had taken over in its sphere of activity. The decree regarding the establishment of the Central Planning Board is given in SPEER Exhibit No. 7 under No. 42. In it the labour sphere of the Central Planning Board is firmly outlined. The procurement and distribution of labour should not be included in the sphere of competence of the Central Planning Board as the new Office was created just for that purpose. It follows also from the testimony that - when the co-defendant SAUCKEL discussed fully the question of policy of labour commitment before the Central Planning Board - he underlined sharply his independence of the Central Planning Board and laid weight thereon that his decisions are accountable only to the Fuehrer in the last instance. For this I refer to the testimonies of the witness KEHRL and the witness SCHIEBER (SPEER Exh. Nos. 36, 37) . Nothing contradicts the fact that attempts were made in the Central Planning Board to influence the sphere of activity of the General-Plenipotentiary for Labour. These attempts, however, did not lead to any results.

In principle it results that the responsibility of the defendant SPEER for the transportation of labour from the occupied territories to the Reich cannot be deduced from his activity within the framework of the Central Planning Board.

If the Prosecution charges the defendant with having known that a great portion of the workmen made available to him by SAUCKEL, were brought to Germany against their will and that he used these workmen in the industry under his supervision, this conclusion encounters legal critisism.

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If and in so far as the removal of labor to the Reich were a violation of International Law, such crime would be terminated with the removal of labor to the Reich. The fact that the persons removed into Reich territory were assigned for work establishes, legally speaking, a new set of facts to which the Prosecution applies the concept of "slave labor". In this connection the following should be considered: By reason of the Reich Compensation Law and the enactment every decree there existed for/German a liability to make his services available for war purposes. Through the Labor Office as highest instance, the State leadership could dispose of the labor of every State national for any purpose it deemed appropriate, and it has done so. Foreign workers who were removed to Germany became likewise subject to this regulation. There is no attempt made on our part to deny that no provision is found in HLO (Haager Landkriegsordnung - Hague Convention/ for Land Warfare) itself which would support labor compulsion in force for German nationals to be extended to inhabitants of the occupied territories. Since HLO reflects the influence of a different concept of warfare, it could not yet take conditions into consideration which were brought on by economic warfare. Yet it is not possible to answer affirmatively the question whether HLO conclusively regulates the summariness of all powers incumbent upon an occupation authority. An affirmation is contradicted by the practice of all nations who participated in this war. But in this respect also the angle of the above-mentioned State emergency situation can be resorted to for a correct evaluation and appreciation of the case. It should be admitted that the Prosecution is right in that this extension of labor liability can be justified from that point of view only . Assuming the Prosecution's contention of a lack of legal justification for the extension of labor liability to foreign nationals of occupied territories, there remains the need for checking the extent to which culpability could be claimed for the defendant SPEER because of the employment of labor held under such compulsion.

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That the defendant SPEER, although he was not responsible for this, still attempted to facilitate the living conditions of these workers and that he has also helped to correct bad conditions - insofar as these came to his attention - is shown by Exhibits 3,4 and 5 of the SPEER document book (Pages 7,8,9, of the document book).

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Reference should also be made to the testimony of the defendant himself, in direct examination as well as in cross-examination, when he described his activity in that field.

Justice Jackson, the American Chief Prosecutor when placing before the defendant SPEER during his cross-examination a series of documents, purportedly to prove the bad treatment of foreign workers by the firm of KRUPP in Essen, himself stated that he does not hold the defendant SPEER responsible for such individual incidents (see page 11861 of the German transcript of Court proceedings).

The documents involved were the affidavit of Dr. JAEGER (document D-288), discussed by Dr. SERVATIUS; a letter of the Locomotive Manufacturing Department of the firm of KRUPP, dated February 1942, just after the defendant SPEER had taken office as Reich Minister. Conditions as described therein had called for SPEER's intervention with HITLER in March 1942 (SPEER Exhibit No. 3, page 7 of Document Book SPEER). Another document also submitted, document D-321, describes conditions as they prevailed when Russian laborers came to Essen in 1941, in other words, before the defendant SPEER took office. Document D-258, USA Exhibit No. 896, which came up during cross-examination was not produced as proof of charge against the defendant, as stated by Justice Jackson (page 11872 of the German transcript of Court Proceedings). Further documents then submitted all deal with incidents in the Krupp Works. To the extent to which he was able to do so, the defendant explaind all of them. These documents show that improper conditons of a general nature for which the firm of Krupp might be held responsible resulted from the effects of air bombardment and demolition of living quarters incidental thereto. But even if the incidents cited should have actually occurred with that firm - which the defense is not in a position to verify - these incidents would not supply adequate ground for the assumption that the conditions under which foreign laborers worked in armament industries were uniformly the same. Picking out only

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one firm and examining it does not permit the drawing of conclusions as to a whole system. But only findings covering the system as such would yield evidence.

It is true that this activity of the defendant SPEER would not essentially influence criminal evaluation of his actions in principle, but it would be of decisive import in establishing the measure of his participation.

When the defendant took office, the practice of employing foreign labor and prisoners of war was already in existence; it is not he who introduced it. Thus he should not be considered as the originator, which may likewise deserve to be taken into account for the establishment of judgment, since it did not seem possible to abrogate the practice after its establishment. The employment of foreign labor in German economy was not something unusual. In peace times also a great number of foreign laborers were employed in agriculture, in mining, in surface, and in underground workings.

During the war foreign laborers from the East as well as from the West, had already been brought to Germany to a considerable extent, even before the defendant SPEER took office, and only a portion of them belonged to the sector under SPEER's control.

In order to divide off the spheres of jurisdiction of the two defendants, SAUCKEL and SPEER, how assignment and distribution of workers into the establishments most recently under the control of the defendant SPEER was handled will be described below. Acting in behalf of the SPEER Ministry, commissions and pools assigned to the individual establishments certain production tasks as part of the armament program. The factory then figured out the number of workers needed. This was reported to the Armament Command and at the same time also to the Labor Office where labor requirements of all works were recorded. The Armament Commands examined all requests for workers received from all works under their jurisdiction and passed them on to the Armament Inspection Offices. Labor requirements reported to the Labor Offices were forwarded by them to the Gau Labor Offices. Armament Inspection Offices collected the requests and forwarded them to the SPEER Ministry, Labor Mobilization

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Division. The Gau Labor Offices directed applications which they received to the General Commissioner for the Commitment of Labor (Gb.Arb.) In this connection it is noteworthy that in 1942 the SPEER Ministry controlled only construction work and army armament. Navy and Air armament handled their requests for labor independently. In the spring of 1943 Navy armament was assigned to the SPEER Ministry; from then on Navy handled its labor requisitions by way of the Labor Commitment Division; in the fall of 1943 the rest of production was added while Aircraft armament continued to handle its requisitions independently through the General Commissioner for the Mobilization of Labor until August 1944.

An account of these details is indispensable in order to show that the Prosecution's assumption, according to which SPEER is seen as the main beneficiary of SAUCKEL's mobilization of labor can be disproved. Incidentally, it is mentioned that alongside of the SPEER Ministry there existed essential industries and agencies of equal importance, for instance the Wehrmacht Administration, the Transport System and so forth; this has also been confirmed by the testimony of witnesses. The General Commissioner for the Commitment of Labor (Gb.Arb.) distributed the labor at his disposal among the various essential industries and agencies, assigned the required labor to the Gau Labor Offices who, in turn; referred them to the local labor offices where allotment of individual laborers to the individual establishments was handled, on the strength of applications which had undergone examination through the branches of the Armament Offices. Exceptions to this cumbersome type of procedure were possible through the introduction of the so-called "red-slip process" which was applied in the case of exceptionally urgent production assignments (SPEER Exhibit No. 37, page 132 of Document Book). A certain number of red slips were made available monthly by the General Commissioner for the Commitment of Labor to the Armaments Ministry, for distribution by the latter to the individual industrial works under its supervision by way of the industries self-administration agencies. The individual factory then presented these red slips to the Labor Office, and these requests for workers covered by red slips were acted upon without regard for the requirements of other essential industries and agencies, and not until then could allotment of labor be made to other establishments. In all instances where normal requests for labor are involved,

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allotting was exclusively in the hands of labor authorities under direction of the defendant SAUCKEL, so that neither the individual factory nor the offices of the defendant SPEER nor the latter himself had any influence on the distribution. The question whether local labor or foreign labor, or prisoners of war were used to satisfy requisitions

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was left for the Labor Authorities to decide (Document Book II, page 108, 109.

In concluding the presentation of evidence, the Prosecution submitted the decree of 1 December 1942 (Document No. 4006-PS), issued jointly by SPEER and SAUCKEL. The Prosecution contends that this document and the decree of 22 June 1944, simultaneously submitted, furnish a basis for appraisal of the power ratios between Speer and Sauckel. Therefore, some comment on this is appropriate.

From the decree of 1 December 1942 it is clear beyond doubt that the Gener Commissioner for the Commitment of Labor was authorized to examine requests for labor, to the extent to which they came from the armaments industry. If then a case arose that a factory asked for the additional laborers required to carry out the production job assigned to it, the General Commissioner for the Commitment of Labor reserved to himself the right of examination as to its necessity. The intention was to make the individual factory exert the greatest possible economy in the use of labor within its own works. Another purpose of these commissions was to establish the extent to which an establishment might be in a position to spare of its own lab r for work in other plants, without impairing the task assigned to it. It was the task of the Armaments Ministry and of the agencies under its authority to determine the priority range in the consideration of requests for labor received by establishments under its jurisdiction . They also had to determine which of the plants was in a position to make workers available to other plants whenever both made the same product for the same Wehrmacht equirements. As an example, supposing the supply/ program to be modified for a plant manufacturing vehicle suppl articles it was left to the Armaments Commands to decide whether the labor power thus set free should be assigned to another factory in the same line of production. In general, the allotment of labor remained in the hand of the General Commissioner for the Committment of Labor. The agencies of Speer's Ministry were merely concerned with directing the labor already available to these branches of industry as assigned to these establishments throught the General Commissioner for the Committment of Labor.

The procurement of other labor was now, as before, in the hands of the Plenipotentiary General for Labor, and furthermore the Plenipotentiary-General for Labor participated authoritavely in the examination of the question as to what extent plants could release labor in order to make it available to others. (Combing-out action.) The authority of the Plenipotentiary General for Labor was therefore not limited to any extent through this mutual agreement between him and the Reich Minister for Armament and War Production. His task was merely now as before to procure labor for the plants, he was even given a considerable amount of authority in labor questions, to look over the armament plants subordinated to the defendant SPEER and to examine if and to what extent these plants could make labor available for other plants. The decree of 22 June 1944 ordered that labor which was already available was to be used in accordance with directives of the Central Authorities or according to the orders of the Chairman of the Armament Commission. It must also be noted in this respect that it was not a matter of using new labor unskilled in armament work which, now as before, was procured through the Plenipotentiary-General for Labor, but solely so-called transfer-actions from one armament plant to the other. The SAUCKEL Agencies therefore could no longer, in accordance with this decree, check the demands for labor on the part of the plants subordinated to the SPEER Ministry, if the Chairman of the Armament Commission had recognized these demands. This decree did not bring any change in the basic distribution of authority, according to which the Plenipotentiary-General for Labor had to procure the required labor and handled the whole allocation of labor. If the Agencies of the Plenipotentiary-General allocated labor on a demand for labor which had already bee checked, then it was left to their decision as to what labor, it native or foreign, etc. was to be furnished. The authority of the Agencies of the Minister for Armament in questions of the commitment of labor were limited to a large extent to the execution of so-called transfer-actions, i.e. assignment of labor from one armament plant to another. It would be wrong to try to conclude a considerable limitation of the authority of the Plenipotentiary-General for Labor and a fundamental expansion of SPEER's authority from these decrees. It would be just

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as wrong/to conclude from this that the influence of the Armament Ministry had been increased over other authorities of the Plenipotentiary-General for Labor.

In order apparently to characterize the relationship between SPEER and SAUCKEL, the Prosecution has finally submitted a file note of General THOMAS, the Director of the War Economy- and Armament Division in the OKW regarding a discussion between the defendant SPEER himself on the one hand, and the Directors of the Armament Offices of the three branches of the Wehrmacht on the other hand of 24 March 1942, in which THOMAS states that the Fuehrer considered SPEER as his main authority and his trustee for all economic spheres. This note can only be understood in connection with the report of the account which General THOMAS gave regarding his activity as Director of the War Economy and Armament Office, and which has been presented in excerpt form to the Tribunal under the file No 2353-PS. Prior to SPEER's appointment as Minister for Armament, THOMAS had tried to effect that the position of the General Plenipotentiary for Economy, which had been provided in the Reich Defense Law, would be expanded to an Agency which would control the whole war economy. When now the armament economy was confronted with high demands in connection with the first winter campaign in Russia and the losses which had been sustained there, and HITLER, after the death of Dr. TODT, appointed SPEER to be his successor in the Ministry for Armaments and Munitions, THOMAS thought to see in SPEER a personality, who would receive the authority which he had striven to obtain for the General Plenipotentiary for Economy. This, however, did not occur. As has been shown from the evidence, SPEER only received the army equipment and the construction system. The subordination of the new agency of the Plenipotentiary-General for Labor under his Ministry, for which the defendant SPEER was striving, was not sanctioned by HITLER. SPEER's rights as Minister for Armament are stated by the decree. The generally maintained expectations of General THOMAS, which the latter had linked with SPEER's appointment, were therefore not fulfilled in any way. SPEER only received an increased authority when, in the year 1943 he took over industrial production from the Ministry of Economy. But even

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then he was still far from having the sphere of work, which General Thomas had expected for SPEER. Based on this expectation General Thomas thought to see, in the person of SPEER, the man, appointed by Hitler, who would be decisive for all economic questions. In the file note of General Thomas, which confined itself to generalities, it is a matter of an expression of opinion which was not justified by the actual state of affairs. It offers no basis for the reply to the question, how the responsibility for the policy of the commitment of labor objected to by the Prosecution can be distributed.

In summarizing it must be stated to this count of indictment:

SPEER is not responsible for the means employed for the procurement of foreign labor, nor for its removal to Germany. He is at the most responsible for the utilization of part of this labor in Germany.

As a further count of indictment it has been stated that the defendant had employed prisoners-of-war in the economic sector which was under his direction, and that he had thereby violated Article 32 of the Geneva Convention of 1929 regarding the treatment of prisoners-of-war were used in plants under his control; this, however, cannot be regarded simply as a violation against Article 31 of the previously mentioned Agreement. The expression "armament economy" and/or "armament plant" does not have the same meaning as plant and/or economy, whose task is the manufacture of arms and direct war requirements. The term "armament plant" can only be understood from its development. When at the beginning of rearmament, the limitation of raw materials began, plants which were working for rearmament were given preference in obtaining raw materials. These plants were subordinated to the armament inspections established by the Wehrmacht, and were called "armament plants". In addition to all other plants, those which served the manufacture of iron-, steel- and metals

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as well as those plants which manufactured machine-boilers and vehicles and appliances; also the entire manufacture of raw steel and the first stage of preparation (foundries, rolling works, forges) as well as the whole remaining subsidiary supply industry was included in it. So, for example, electro-technical plants, plants which produced optical products, plants which manufactured ball-bearings, cog-wheels, etc. This is shown by the testimony of the witness Schieber. (Exhibit No. 37, Question 9, Document Book Page 114.)

Approximately 30-35% only of the whole iron production was used for the production of armament to the extent as previously described, and 60% for the maintenance of production or for other consumers (Reich Railroads, construction of merchant vessels, agricultural machine-export-goods, appliances for the chemical industry). We refer to the testimony of the witness Kehrl, which has been submitted under SPEER Exhibit No. 36, and particularly to his answer to question 5. Since the iron quota assigned to the armament industry also includes the manufacture of raw steel and the stages of manufacture, it can be safely presumed that of all the plants which were combined in the armament inspections, only approximately 20-30% manufactured armament products within the meaning of the Geneva Convention. The details had to be treated individually, in order to gain an idea as to what extent article 31 of the Geneva Convention could be violated by the employment of prisoners-of-war. The Prosecution has presented an Affidavit of the American economic statistician DEUSS under No. 2520-PS, in order to prove thereby how many prisoners-of-war and foreign workers were employed in the armament industry.

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The compilation, which is principally supported by numbers taken from the documents in the possession of the defendant SPEER, do not however, state in which branches of the armament industry the individual prisoners-of-war worked. A big enterprise, which, because it falls under one of the above-listed categories and as the result there-of was considered an armament plant in its entirety, needs only to manufacture a fraction or perhaps no weapons or equipment which stand in direct relationship to war activities. If prisoners-of-war were employed in it, then this occupation does not represent a violation of Article 31 of the Geneva Prisoner-of-War Convention. Such a plant however, appears collectively in DEUSS' Affidavit. The Affidavit thereby loses its value as evidence as to, if and to what extent Article 31 of the Geneva Convention was violated by the employment of prisoners-of-war in armament.

The French Prosecution has represented the point-of-view, that the employment of French civilian workers who had been released from prisoner-of-war confinement and who were employed in the armament industry was also to be considered a violation against Article 31. This is not applicable. Beginning with the time of their release, the former prisoner-of-war were free people, unlimited in their freedom of movement, and only limited by the obligations embodied in the contract of employment. In addition to this no French prisoner-of-war could be forced to agree to his release with the obligation to make his labor available to German industry. It was his free decision if he preferred to accept his release as a prisoner-of-war under these conditions; from that moment on he was no longer a soldier,

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no longer subject to military discipline, received his working wages like every free worker, and was not subjected to any camp discipline or any other similar circumscribing regulations. To those amongst the prisoners-of-war who preferred to agree to their release under these circumstances, these advantages apparently appeared more valuable thatn the protection which they enjoyed as prisoners-of -war. If they did this then their occupation, even in work which in itself is prohibited for prisoners-of-war in accordance with Article 31, cannot be considered a violation of this Article. The employment of prisoners-of-war in the industry of the country which is holding them prisoner is not prohibited by the Geneva Prisoner-of-War Convention. Only that work is prohebited which is directly connected with military operations, for example the use of prisoners-of-war for fortification works for the combat unit. The defendant SPEER cannot be accused of anything of this kind. The manufacture and transport of weapons of all kinds as well as transportation of war materiel for the combat units. In the armament economy under the control of the defendant SPEER the only thing which could be considered as a violation of the afore-mentioned rule is the manufacture of weapons and ammunition of all kinds. Such a violation, however, has so far not been proved by the Prosecution at all.

It must furthermore be examined how the assignment of prisoners-of-war to plants took place. According to the testimony of the defendant SAUCKEL, this was done by the War Exonomy officers with the Military District Commanders submitting the number of prisoners-of-war available for work to the District Employment Office, and the transfer of the prisoners-of-war to the plants then took place in the same manner as with usual labor. A difference

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only existed in that the camp officers - the prisoners-of-war were billeted in so-called enlisted men's camps (Stammlager) - were responsible that the directives issued by the OKW for the employment and the treatment of prisoners-of-war were complied with. It was the responsibility of these camp-officers, that in the employment of prisoners-of-war a violation of Article 31 of the Prisoner-of-War Convention was rendered impossible. The Commitment Officers (Einsatzoffiziere) appointed by the camp commanders had constantly to control and examine the working conditions and the kind of occupation of prisoners-of-war used in armament plants, and they had to watch and see that no prohibited work was imposed on the prisoners-of-war. The defendant Keitel has given an exact description of the manner and procedure in which the control of prisoners-of-war in the home area was exercised. Documents have also been submitted, which give information about the treatment of prisoners-of-war.

The prisoners-of-war, who were confined in Assembly Camps (Sammellagern) were constantly examined by Camp Commitment Officers (Lagereinsatzoffiziere) to see that the employment of prisoners-of-war was in accordance with Articles 31 and 32 of the Geneva Prisoner-of-War Convention. As far as French prisoners-of-war are concerned a special competence existed in the person of Ambassador Scapini, who had to forward any probable complaints against the use of prisoner-of-war labor in violation of International Law to the OKW.

Complaints of this sort by Ambassador Scapini

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were immediately investigated, and if they were found to be justified, improvements were made. It is of course possible that in such a large organization as the large number of French prisoners-of-war made necessary, mistakes would also occur occasionally. Measures for the correction of mistakes of this kind are after all provided by the Geneva Prisoners-of-War convention itself in its regulations. These regulations were also effective in the last war. The representatives of the Protecting Powers have intervened against bad conditions, which had been brought to their attention on the basis of complaints, and they have also demanded and achieved their abolition. If such mistakes were recognized and reported, they were then immediately remedied. It would be incorrect to try to conclude a premeditated system from individual occurences. The protection of prisoners-of-war which they found in the Labor Commitment Officers (Arbeitseinsatzoffizieren), even laid defendant SPEER open to criticism by individual plant directors, as being too extensive.

As far as the legal relations of the defendant SPEER in this respect are concerned, it must first be examined, if the employment of prisoners-of-war in the armament industry is to be fundamentally regarded as a violation of the rules of International Law. After the previously-mentioned statements regarding the character of the plants which were combined in the armament industry, this must be answered in the negative. Only in so far as prisoners-of-war were actually employed on the production of arms and on the production of immediate war material could we speak of a violation of Article 31. That this regulation may have been violated in individual cases will not be denied by us. If, for example, the photographs submitted by the American Prosecution show that near the front lines prisoners-of-war were used to unload munition-trains, then this doubtlessly represents a violation of the regulation of Article 31. The defendant SPEER however, cannot be accused of such incidents, as they do not fall under his competence. To conclude a violation of the regulations of the Geneva Prisoners-of-War Convention on a large scale that the employment of prisoners-of-war in the armament-industry did take place, is not applicable.

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A further reproach of the Prosecution refers to the violation of Art. 32 of the Prisoners of War Agreement, according to which prisoners of war were employed in unhealthy work, in so far as prisoners of war had been employed in mines. For this a reference is made to the minutes of a Central Planning meeting where the employment of Russian prisoners of war in mines is discussed. The employment of prisoners of war in mines is not to be considered as forbidden in itself, and it has been practised in all industrial nations. The employment of Russain prisoners of war in mines is, therefore, not to be objected to, in so far as the prisoners concerned were in a physical condition that enabled them to do heavy mining work. It has not been establishe and proved by the Prosecution, that these prisoners of war were not physicaly fit for the work given them. From the fact, that the employment of prisoners of war in mines was discussed and approved, it cannot be concluded that Art. 32 of the Prisoners of War Agreement was violated. The treatment of prisoners of was has to be examined legally from various points of view. The German Government has taken the point of view, that Soviet prisoners of war should be treated on a different legal basis than the subjects of the Western States, who were all parties to the treaty of the Geneva Prisoners of War Convention of 1929, whereas the Soviet Union had not signed this agreement. The Soviet Prosecution has presented Document EC 338/ USSR 356, an investigatio according to international law of the Foreign Counter-Intelligence Office (Amtes Ausland/Abwehr) in the High Command of the Wehrmacht, concerning the legality of the regulations issued on the treatment of Soviet prisoners of war, and levelled sharp criticism at the latter. The essential point is that in this report the view is expressed, that as a matter of foundamental principle, Soviet prisoners of war cannot be treated according to the rules of the Geneva Prisoners of War Agreement, because the Soviet Union did not participate in this, and that this report refers to the decree of the Soviet Union of 1. 7. 1941 concerning the treatment of prisoners of war, concerning which the opinion of the High Command of the Wehrmacht, Foreign Counter-Intelligence, establishes that on essential points it agrees with the rules of the Geneva Prisoners of War Agreement. It is, however, characteristic, that in this decree it is ordered that non-commissioned offiecrs and enlisted men taken prisoners of war

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may be put to work for industry and agriculture, inside the camp or outside, and that the only restriction is that the use of prisoner of war labor is forbidden a) in the combat area, b) for personal needs of the administration, as well as the needs of other prisoners of war. (orderlies) (see page 12/13 of the Doc. Book). An order restricting the use of prisoner of war labor according to Art. 31 and 32 of the Geneva Prisoner of War Agreement is not to be understood from the above-mentioned command. It now remains to investigate whether the stipulations of Art. 31 and 32 of the Geneva Prisoner of War Agreement flow from general rules of International Law, which should be observed, even if there were no special ruling by treaty, such as the Geneva POW agreement represents. This cannot generally be affirmed. The above-mentioned treaty regulations cannot be regarded as the prescription by treaty of a generally valid legal concept, if so important a member of the family of International Law as the Soviet Union does not accept a ruling of this sort. Proceeding from this idea, the employment of Soviet POW in work that was not forbidden by Art. 31 of the POW Agreement is not to be objected to. The Italian military persons interned in Germany after Italy's fall do not come under the regulations of the Geneva POW agreement since no state of war existed between Germany and Italy. Moreover, these military internees did not come under the restrictions of Art. 31, in their employment as manpower. It must, however, be pointed out that these military internees are comprised in the enumeration by Mr. DEUSS, of POWs occupied in the armament industry.

In conclusion, the following is to be said on this point:

The procurement of prisoners of war for the factories was effected exclusively through the offices of the General Plenipotentiary for Labor Commitment. The control of the proper allocation in accordance with the POW agreement, depended on the Labor Commitment Officer of the Stalag, who in return was himself finally responsible to the General for POW matters at the Army High Command. It was not possible for the defendant SPEER to have any influence on the distribution of prisoners of war and their occupation.

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The Prosecution has not been inaa position to bring any proof from which the participation of defendant SPEER to unlawful occupation of prisoner of war might be deduced. These assertions of the Prosecution have remained unproved.

The Prosecution has now further brought against the defendant, the charge that the TODT Organization, at the head of which SPEER was placed in February 1942 after Dr. TODT's death, had used native workers to build fortifications in the French coastal areas. As far as the TODT Organization is concerned, it is a purely civilian institution of the General Construction Inspector for road maintainance. It worked on a private economical basis, that is, that it gave out the construction work that it intended to carry out to private firms, also to foreign firms, which were established in the respective countries, and merely supervised the execution of the constructions. The private firms could undertake the procurement of the necessary materials and labor themselves. For the very reason that native construction enterprises were used it was possible to eliminate the difficulties which otherwise would have opposed themselves to the execution of the work. The workyards of the TODT Organization enjoyed a certain favor with the natives because the workmen had the assurance that they could not be compelled to go to Germany to work in industry there, because these places of construction were considered as urgently important. The workers went voluntarily to the firms which were active for the TODT Organization to obtain this security. The example quoted by the defendant SPEER during cross-examination, of 50,000 TODT Organization workers who were once taken from France to Germany to repair damages caused to two West German valley dams by air attacks made such a bad impression on the workers employed in other TODT Organization construction sites that nothing else left to do but to send these 50,000 workers back to France. In the meantime, many workmen of the TODT Organization construction sites in France disappeared, because they feared to be taken to Germany sooner or later against their will, while up to then they had regarded employment in enterprises which worked for the TODT Organization

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as insurance against an eventual transfer to Germany. Only the return of the above - mentioned 50,000 workers to France, which was brought about by the defendant SPEER when these infavourable consequences developed, restored the hitherto existing state of confidence. Here also the reason should be emphasized that the fact results from the event described that the Todt Organization workers were free to go where they wished; in any case, that no coercion was used against them. The consequences of this was that when the protected plants (Sperrbetriebe) were established in France, all enterprises working for the Todt Organization were declared protected plants and therewith removed from the possibility of being employed on other work. This instance shows that the view of the Prosecution tha the workers of the Todt Organization were forced into the Todt Organization plants against their will is a wrong interpretation.

As it is established that the French government agreed to the use of French workers in construction sites under administration of the Todt Organization, as well as in any other armament industries in Germany and occupied territories, every illegality is excluded. It should not be left unmentioned here, that after the conclusion of the Armistice Agreement with France the latter had no more part in military hostilities. The Armistice Treaty certainly did not mean an agreement for a truce but de facto a final stopping of hostilities, and served as a preparation for the conclusio of peace. It was a situation, which no longer signified war, but also did not yet mean the definite return to peacetime conditions, regulated by treaty. A resumption of hostilities was, however, according to both partners to the armistice, completely out of the question. The armistice was to regulate exclusively the situation until the definite conclusion of peace. Prescriptions of the Hague Convention, as well as of the POW Agreement concerning the restriction that performance of services cannot be allowed to violate the loyalty towards one's own country, which is still fighting, because the country is not longer at war. After a general armistice, the production of arms and munitions can no longer be directed against the party which has retired from hostilities, but only against other partners still in the field

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The aforementioned principle of respecting the duty of faithfulness to one's own country can in such a case no more be applied.

It must moreover be pointed out that the Organization Todt was in no way a para-military organization as has been falsely asserted. Apparently this false assumption has been strengthened by the fact that the German members of the administration of the Organization Todt abroad wore a uniform. These people were considered as Wehrmacht followers, but on the other hand the labor engaged by the firms and the construction workers of the firms as well as the technical personnel were in no such relation.

The reproach cannot be made, therefore, that these native workers were indirectly incorporated into a Wehrmacht organization.

A further reproach against the defendant SPEER consists in the fact that prisoners from concentration camps were employed in the economic sector controlled by him. The defendant admitted this. A penal responsibility because of this fact does not, however, stand the test of a legal verification. The employment of convicts for work of an economic nature has always been a practice in Germany. It could be carried out in various ways, partly by employment within the convict-prison itself, partly outside. Owing to the lack of labor due to the aggravation of the economic war, it was necessary to draw upon the labor available in the concentration camps.

The Prosecution has submitted documents from which can be seen how much trouble the offices subordinate to the Reich Minister HIMMLER took to use the reserves of labor contained in the concentration camps for the construction of their own SS plants, and the defendant SPEER has supplied information during his hearing before the the Court on 20/21 June regarding the efforts of HIMMLER

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sending towards building up a separate armament industry of his own, and subordinate to him only, which would have had the result that any control over the production of arms in these intended SS plants would have become impossible, so that the SS could have provided themselves with weapons without the Army or any other offices being able to control them. The defendant SPEER successfully fought against this. It was agreed that HIMMLER would release a part of the inmates of the concentration camps to be employed in the armament industry. Hereby the inmates of the concentration camps gained an improvement of their situation, since in the first place they obtained the higher food rations provided for workmen or for those doing long shifts or heavy work, as has been attested by witness RICKE; moreover, they left the large concentration camps, and were no more under SS control during working hours, but in the plants they were subject to the control of foremen and skilled workmen appointed by the plants. It is true that to avoid transportation and marching difficulties special camps were erected near the plants or working places where they were employed, and these were not accessible to the control of the plant managers nor to the offices of the defendant SPEER, but stood exclusively under the control of the offices in charge of the administration of the concentration camps. For the conditions prevailing in such camps neither the plant manager nor the offices of the defendant SPEER can be held responsible if abuses occured there. In general, as attested by the letter of the department chief SCHIEBER of 7 May 1944 to the defendant SPEER (doc.book II, page 88), the inmates preferred work in such plants to an occupation given by the administration of the concentration camp itself; and SCHIEBER quite clearly states in his letter that for these reasons more room should be given to the employment of concentration camp inmates, in order to <u>improve their lot.</u> But he further states that the number of concentration camp inmates employed in the armament industry amounted to 36,000 and that this figure was decreasing. Against this the defendant's assertion at his interrogation that the total number of concentration camp workers employed in the armament industry amounted to 1% of the total number of workmen employed in the whole armament industry, is calculated too high. Of 4.9 million workmen

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engaged in the final processing of armaments the figure of 36.000 represents only 7 per thousand. The number of concentration camp inmates employed in the armament industry represents a very small part of the total labour employed in the final processing of armaments, that is of the total labor employed in the plants manufacturing finished products.

These figures show how misleading the assumption of the prosecution is, that the employment of such prisoners in the armament industry had resulted in an increased demand for such labor, and that this increased demand was satisfied by the sending into concentration camps of persons who under normal conditions would never have come there. The opinion that the fact of the employment of prisoners from concentration camps in the armament industry led to an increase in the number of concentration camp inmates is disproved by the already mentioned letter of Schieber (Exh. No. 6, page 88) and by his testimony, also submitted as Exh. No. 37, doc. 51. According to this, the employment of concentration camp inmates in the armament industry occuned for the first time in the autumn of 1943 and the number of prisoners employed there reached its peak with the maximum figure of 3600 in March 1944 and from that time on not only did not increase, but on the contrary decreased. The conclusions of the prosecttion in no way bear examination. Not even the proof has been brought forward that SPEER had attempted to have people sent to the concentration camps.

At his interrogation the defendant admitted that everywhere in Germany people were afraid of being sent to a concentration camp. This dread in the population of concentration camps was quite justified, for it depended only on the judgment of the police authorities led by Himmler whether a person was sent to a concentration camp or not, further because therewas not legal authority which might have made it possible to cheeck the charges resulting in transfer to a concentration camp and finally, and this is the main reason, because it lay entirely within the discretion of the concentration camp authorities to decide for how long one was to be sent to a concentration camp.

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The Prosecution has further asserted that SPEER went on having concentra camp inmates employed in industry after he had obtained knowledge of the conditions prevailing in the Mauthausen camp from a visit he made there. That this was not the case is proved by the evidence of the defendant on this point. As it was only a hurried visit, the purpose of which was merely instruct the camp administration to desist from tasks undertaken in defianc of the prohibition of which served purely peacetime purposes, and instead of this to place labor at the disposal of the armament industry, the defend SPEER could only obtain a superficial impression of the living conditions in the camp. To this point his evidence may be referred to.

Moreover through witnesses for the prosecution detailed reference has been made to the fact that during such visits to concentration camps by personalities of high standing the camps were shown from the best side only, and that any signs of atrocities etc.were carefully removed, so that the visitor should not get a bad impression of the camp (cf. statement of witne Blaha of 1 January 1946).

In connection with this question we will deal with the further reproac of the Prosecution, which asserts that SPEER had approved of the use of Hung Jews as labor for the construction of the bomb-proof aeroplane factories ordered by HITLER. In respect to this, reference must be made to the evidenc of the witness MILCH and that of the witness FRANCK. MILCH stated that SPEER who was ill at that time, strenuously opposed these constructions, but that HITLER, who demanded the undertaking of the work, gave the commission directly to Dorsch, the leader of the Organization Todt (OT), to carry them out. So that the controversy between HITLER and SPEER should not become known to outsiders, Dorsch officially remained subordinate to SPEER, but in this matter he had to deal directly with HITLER alone and was immediately subordinate to him. In his evidence MILCH further stated that these building intentions were never actually carried out. I have submitted HITLER's order to SPEER of 21 April 1944 as Exh.No. 34, page 52 document bo This order clearly shows that HITLER

shows Dorsch as being directly responsible to him, since the appointment of SPEER, who was given the duty of adjusting these building tasks to the building plans under him, was of a purely formal nature. The evidence given by Field Marshal MILCH is thus confirmed by this letter.

To support the opinion of the Prosecution that the defendant SPEER had contributed to sending people to concentration camps, a statement is quoted which was made at a sitting of the Central Planning Board of 10 October 1942 on the question of shirkers. In this connection one must look at the evidence of the defendant SPEER in the witness-box, in which he declared that upon this statement no steps to stop this evil were taken either by the Central Planning Board nor by himself with the General Plenipotentiary for Labor Commitment. Effectively nothing was done about it. It was only in November 1943 that SAUCKEL issued a decree against shirkers. The term "shirker" is applied to those workers who, in order to evade the fulfilment of their working obligations simulate illness or stay away from work under the pretext of reasons that do not stand the test or even without any reasons at all. It may incidentally be mentioned here that economic warfare did not neglect even this question. Efforts were made in every imaginable way to undermine the willingness to work of the working people. By dropping leaflets and through other channels of information, advice was given to the workers as to how they could report sick, as to what means they were to use in order to succeed in feigning illness at medical examinations, they were invited to work slowly, etc. At first this propaganda succeeded only in isolated cases. As however such isolated cases very easily have unfavourable influence on the working discipline of the personnel as a whole, the defendant SPEER discussed the possibility of police intervention. SPEER did not, however, take any initiative of any kind which would have led to a practical action on the part of the police. It was not until a year later that a decree was issued by the General Plenipotentiary for Labor Commitment, first making

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an obligation for the employer to use disciplinary penalties; in particular grave cases indeed the trustee of production could ask for court punishment. Based on this decree sentences could be pronounced providing for transfer to a worker's training camp for a term of 56 days. Only in exceptionally grave cases of infractions of the working law did the decree of the General Plenipotentary for Labor Commitment provide for transfer to a concentration camp. It must here be mentioned that this decree was applicable both to nati and foreign workers in the same way, for in no case were national workers to be treated differently. In the cross-examination of defendant SAUCKEL the Frenc Prosecution procuded the document about a sitting of SAUCKEL's labor authori at the Wartburg. At this sitting Dr. STURM the specialist on questions of labor law at the General Plenipotentiary for Labor Commitment, gave a lectur on the punishment of workmen and it was thereby established that only an infinetisimall percentage of workers had to be sentenced to penal punishment But from this it results again that the Prosecution has brought forward no for the assertion that, as a consequence of SAUCKEL's decree concerning shirk the concentration camps had been filled up, so that a conclusive proof is lacking that SAUCKEL, or respectively, the defendant SPEER contributed by an measures they took to the filling of concentration camps. In his statement before the Central Planning Board of 22 May 1944 (P. 49 doc. book, USA Exh. 179) SPEER pointed out that the escaped prisoners of war who were apprehende by the plice had to be brought straight back to their work. From this remark we see the basic attitude of the defendant SPEER who did not want to see the escaped prisoners of war thrown into a concentration camp, but demanded that they be immediately incorporated into industry. So far the Prosecution has not been able to bring forward a proof that will stand the test for the assertion that SPEER had the concentration camps filled, in order to obtain labor from them.

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during the hearing of evidence I had ample opportunity to state the activities of the defendant SPEER during the last phases of the war from June 1944.

I can, therefore, confine myself to proving now in regard to this detailed chronological description that the entire testimony of SPEER is covered almost in its entirety by testimonies of other witnesses and by documents. The written depositions of witnesses which I refrained from reading before the court, run along entirely the same lines, although the witnesses came from different camps and expressed themselves in a completely unbiased manner.

Beginning with June 1944, the defendant SPEER readily reported to HITLER on the situation of his armament production and pointed out vigorously at the same time that the war would be lost if such decline of production were allowed to continue.

This is proved by the memorandums of SPEER to HITLER submitted as SPEER Exhibit Nos. 14, 15, 20, 21, 22, 23, and 24. As stated by the witness General GUDERIAN, Chief of the General Staff of the Army (compare Question 6, page 179 of the document book SPEER) HITLER defined since the end of January 1945 any such information as high treason and subjected it to corresponding punishment. Nevertheless, as it appears also from the deposition of GUDERIAN (Question 9, page 179, v. POSER, question 22, page 11) SPEER stated clearly time and again to HITLER as well as to GUDERIAN his opinion about the prospects of the war.

HITLER had forbidden especially to inform third persons about the true situation of the war. Notwithstanding this, SPEER informed, after the severest orders of destruction had been issued by HITLER, the Gauleiters and the Commander-in-Chief of various army groups, that the war was lost and achieved thus that HITLER's policy of destruction was at least partly prevented. This is evident from the testimonies of the witnesses HUPPFAUER, KEMPF and von POSER (HUPFAUER, Q. 24, page 138; KEMPF, Q. 10, page 171; v. POSER, Q. 6, page 4).

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HITLER declared to SPEER on 29.3.45 that the latter would have to take the consequences customary in such cases, if he continued to declare that the war is lost, i.e. to be shot. This conversation is contained in the testimony of the witness KEMPF (Q. 10, page 171). In spite of it SPEER travelled already 2 days afterwards to SEYSS-INQUART (on 1 April 1945), in order to explain also to him that the war was lost.... The witness SEYSS-INQUART and the witness SCHWEBEL (Interrogation 11 June 1946, German minutes, page 11216, witness SCHWEBEL, interrogation 14 June 1946, page 11482 of the German minutes) stated here unanimously that this conversation with SPEER of 1 April 45 occasioned the conferences of SEYSS-INQUART with the Chief of the General Staff of General EISENHOWER, General SMITH. This led finally to the handing over of undestroyed Holland to the Allies. On 24 April 1945 SPEER flew once again to Berlin which was already besieged in order to persuade HITLER that this senseless battle should be given up, as is evident from the testimony of the witness POSER (Q. 22, page 11). In his last will HITLER dismissed SPEER on 29 April 45. (Document 3569-PS, page 87 of the Document Book).

The American chief prosecutor, Chief Justice JACKSON has therefore been obliged to confirm to the defendant SPEER during his cross-examination, that he evidently was the only man who told HITLER the whole truth.

The representatives of the prosecution have produced no evidence that destructions of industries took place in Poland, the Balkans, Czechoslovakia, France, Belgium, Holland have been destroyed during the German retreat.

This is in the first place a merit of the defendant SPEER who prevented the destruction of the industries of these countries as ordered by HITLER, partly even through a false interpretation of existing orders. That SPEER was convinced as early as in summer 1944 that these destructions should be prevented in the general European interest, is evident from the testimony of the witness von POSER (Q. 2, pages 1/2, Q. 22, pages 10/11

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It would have been easy, by relevant execution of the orders, to completely cripple the industries of high standing of Central Europe and of the occupied Western European countries for 2 - 3 years and with it the entire industrial production and civilized life of these peoples, in fact to make rebuilding by own force quite impossible for years to come.

The witness SEYSS-INQUART has stated (testimony of 11 June 46, page 11210 of the German Protocol) that the prepared destruction of only 14 points in Holland would have absolutely destroyed the basis of existence of this country. The destruction of all power plants in these countries would have produced a similar effect as in 1941 the destruction by the Soviets of 2 - 3 power plants in the Donetz territory had shown. It was not until 1943 that production there could start again. Similar and still further reaching consequences had to be expected from the carrying out of HITLER's orders on the European continent.

After the success of the invasion of these occupied territories SPEER gave the authorization to undertake no destructions, as is confirmed by the witnesses v. POSER, KEMPF, SCHIEBER, KEHRL, ROHLAND, SEYSS-INQUART, HIRSCHFEL in SPEER document 16. (KEHRL for the Balkans, Q. 12, page 112; SCHIEBER for Upper-Italy Q. 25, p. 119; ROHLAND for Luxembourg and Lorraine, Q. 5, p. 157; KEMPF for the Balkans, Czecho-Slovakia, Polish-Upper-Silesia, France, Belgium, Holland, Luxembourg, Q. 10, p. 168; SEYSS-INQUART for Holland, 11 June 1946, p. 11210 of Protocl; HIRSCHFELD for Holland, testimony 14 June 46, p. 11461; v. POSER for France, Belgium, Czecho-Slovakia, Upper-Italy, Hungary, the Balkans, Poland).

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Immediately after the appointment of the co-defendant DOENITZ as successor to HITLER, he submitted to him orders prohibiting any destruction in the still occupied territories of Norway, Czecho-Slovakia and Holland, as well as Wehrwolf activities, as is shown in the testimony of the witnesses von POSER and KEMPF (Poser Q. 22, p. 11; Kempf Q. 10, p. 173).

Although SPEER had no direct authority for carrying out the destruction of industries in the occupied territories, he had to accomplish this task at his own responsibility and through his agencies within the borders of the so-called Greater German Reich. He had to keep especially busy in this connection in order to obstruct the total destruction of all real values which was obstinately demanded by HITLER. Information on this will for destruction on the part of HITLER and many of his Gauleiters is furnished in the testimonies of witnesses GUDERIAN, ROHLAND, HUPFAUER, von POSER, STAHL and KEMPF (Hupfauer, Q. 23, p. 137; Rohland, Q. 5, p. 156; Q. 6, p. 158; Q. 8, p. 159; Kempf, Q. 10, pp. 167/68/72; Guderian, Q. 2, p. 177, Q. 3, p. 177; Stahl, Q. 2, p. 183; v. Poser, Q. 3, p. 3).

The most important document in this regard is the letter of SPEER to HITLER of 29 March 45 submitted as SPEER Exh. No. 24, in which SPEER repeats again HITLER's remarks during the conversation on 18 March 45. - This document shows clearly that HITLER had made up his mind to destroy completey the foundations of the life of the German people. This document should be especially rich in information about HITLER's time for any future historian.

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In connection therewith follows the evidence of the General Colonel GUDERIAN who certifies that in February 1945 HITLER

1. confused his inevitable fate with that of the German people,

2. wished by all methods to continue this senseless fight

3. ordered the reckless destruction of all things of real value.

(GUDERIAN Question 3, page 177, question 9, page 179)

At the same time the demolition and evacuation orders of HITLER and BORMANN, which were issued the day after the conference with SPEER and are of impressive clearness, have been submitted to the Tribunal as Documents under SPEER Exhibit No. 25 - 28.

Already since the middle of March 1944 SPEER-considering this war inevitabl lost- was determined to undertake everything in order to maintain the most urgent vital necessities for the German people, as can be confirmed by the witness ROHLAND. (Question 8, page 159)

Notwithstanding the growing danger, he repeated this determination with increasing urgency to his collaborators as the witnesses KEMPF, von POSER and STAHL can certify for the months of July and August 1944 and the witnesses STAHL, KEMPF, von POSER, ROHLAND and HUPFAUER for the critical period from February 1945 onwards. (HUPFAUER, Fr. 24, page 138, ROHLAND question 5, page 156, question 8, page 159, STAHL question 2, page 183, KEMPF question 10, pages 167 - 168; von POSER, question 6, page 4.)

Numerous orders of SPEER dealing with the preservation of Industrial plants issued between September 1944 until the end of March 1945 can be submitted to the Tribunal without any gaps. They were at first partly issued without HITLER's authorisation, but until Feb. 1945, by a clever use of HITLER's hope that these territories could be reconquered, were subsequently approved by him.

The testimonies of the witnesses ROHLAND, KEMPF and von POSER, as well as SPEER's numerous memoranda regarding the war situation prove, that he without sharing it profited by HITLER's illusion in order to prevent these demolitions

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Since the beginning of February 1945 HITLER no longer lent his ear to any such argumentation. The introduction to his demolition orders of 19.3.45 on the contrary, show that he considered it necessary to oppose actively such argumentation. In false orders as those of 30 March 1945 (Speer Exhibit 29 page 81 Doc. Book) to all industrial plants, as well as those of 4 April 1945 for all sluices and dams, SPEER gave instructions - contradictory to the intentions of the orders submitted by HITLER - not to undertake any industrial demolitions. This likewise is corroborated by the witnesses KEMPF, POSER and ROHLAND (ROHLAND question 25, pages 157/158, KEMPF question 10, pages 167, 168, 169, 172, 173, von POSER question 2, page 2 question 3, page 3, question 6, page 4).

During the month of March the executive power for the demolition of industrial plants and of other objects of value was transferred from SPEER to the Gauleiters.

During this period SPEER acted in open insubordination, and on trips to the danger zones he arranged for the sabotage of these orders. As for instance by clever planning he withdrew the stocks of explosives from the possession of the Gauleiters - which was stated by the witnesses von POSER, KEMPF and ROHLAND (ROHLAND question 6, page 158, KEMPF question 10, page 171, von POSER question 3, page 3, question 8, page 4) - and gave orders that the so-called industrial explosives should no longer be produced, as is proved by the statement of the witness KEHRL, the chief of the Office for Raw Products of SPEERS Ministry. (KEHRL, question 11, page 11)

It seems important that SPEER had urgently drawn HITLER's attention to the consequences which the demolitions would have for the German people, as is shown in SPEER's submitted memorandum dated 15 March 1945 (SPEER Exhibit 23) In this SPEER, for example, has established that by the planned demolition of industrial plants and bridges, in the Ruhr for instance, the reconstruction of Germany by her own forces after this war would be made impossible.

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It is without doubt mainly to SPEER's credit that the industrial reconstruction of Western and Central Europe can progress already today , and that in France, Belgium and Holland according to their latest reports, production has already reached the level of the peace-time production of 1938.

SPEER was the Minister responsible for the means of production , i.e. the factories and their installations. Thus he sat in the trans-mission center through which HITLER's intentions for the carrying out of these demolitions must necessarily pass. We have noticed in this trial how in an authoritative system such centers are in the position to carry out on a big scale the orders of the Head of the State. It was a fortunate coincidence that at this decisive period a clear-thinking man like SPEER directed this office where from the industrial demolition must be directed. But with increasing intensification SPEER took measure beyond his sphere of action, in order to ease the transition for the German people and at the same time to shorten the war. SPEER thus tried to prevent the destruction of bridges. Every German knows that up the last days of the war and to the farthest corner of the German Reich, bridges were destroyed in a senseless way.

Nevertheless his efforts were doubtless only a partial success. The numerous conferences, which SPEER held in this connection with military commanders are testified to by the witnesses KEMPF and Lieutenant Colonel von POSER. (KEMPF question 10 pages 171/172, Poser question 4 page 4, question 11 page 5, question 12 page 6, question 15 page 8.) This witness was SPEER'S liaison officer with the army, and accompanied him on all trips to the front.

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These conferences were only partially successful. Finally in the middle of March 1945 the Chief of the General Staff of the Army Generaloberst GUDERIAN and SPEER tried on the latter's proposal to obtain HITLER's agreement to alter his demolition orders regarding bridges, as is confirmed by the witness Generaloberst GUDERIAN (question 1, page 176, Kempf question 10, page 169), but without success.

Knowing that the consequences of these bridge demolitions could not be foreseen, SPEER finally issued on 6 April 1945 6 orders in the name of General WINTER of the Supreme Command of the Wehrmacht which should arrange for the sparing of the bridges of important railway lines in the Reich and in the entire Ruhr territory. These unauthorized orders were confirmed by the statements of the witness/es von POSER and KEMP (v.Poser question 14, page 7, Kempf question 10, page 172).

Noticing at the end of January 1945, that, from a long range view, the guarantee of sufficient food supplies for the German people and the spring preparations for the harvest of 1945 in particular were endangered, SPEER allowed the requests for armament and production , which were in his jurisdiction to be superseded and gave priority to the interests of food supply.

That this did not only deal with the actual food situation but merely in order to relieve the transition period after the occupation by the allied troops is proved by the statements of the witnesses HUPFAUER, KEHRL, ROHLAND, von POSER, RIECKE, Secretary of State in the Ministry of Food, MILCH, KEMPF and SEYSS-INQUART (KEHRL question 10, page 111, HUPFAUER question 21, page 137, ROHLAND question 6, page 138, KEMPF question 10, page 169, SEYSS-INQUART 11.6.1945 page 11225 Protocol, von POSER question 22, page 10/11, RIECKE examination, MILCH examination of 11.3.46.

When SPEER believed that renewed apprehensions/that HITLER, induced by his close collaborators in Party circles would use poison gas in the fall of 1944 and then in the spring of 1945 were justified, he opposed this determinedly as it is proved in his cross examination by the U.S. prosecutor Justice JACKSON and by the testimony of the witness BRANDT (BRANDT Question 2, page 186, question 3, page 186).

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Speers statement, that out of this apprehension he had shut down the German poison Gas production as early as November 1944 was confirmed by the witness SCHIEBER (Question 23, p. 119) Speer at the same time established that the military authorities unanimously opposed such a plan.

Finably since the end of February 1945 the defendant Speer had tried by the planning of a conspiracy, to bring the war quickly to an end.

The staements of the witnesses STAHL and von POSER (question 2, p. 183/148 Stahl question 21, p. 9 von Poser) show that Speer had planned other forced measures. Chief Justice Jackson likewise has established in the course of, Speers crossexamination, that the prosecution knew of further plans, which were to be executed under Speer's leadership.

Speer's political attitude, apart from all these activities, is illuminated by 2 facts:

1.) In Speers memorandum addressed to Hitler, submitted as Exh. 1, the defendant establishes that Bormann and Goebbels marked him estranged from the Party and hostle to it, and that a continued collaboration would be impossible, should he and his collaborators be judged by Party-political measures.

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2.) In their Governments list of 20 July 1944 the Putschists quoted Speer as Armament Minister and as the only Minister of the Hitlerite System, as the witnesses OHLENDORF, KEMPF, and STAHL stated. (Kempf question 9, p. 167, Stahl question 1, p. 189, OHLENDORF)

Would these circles have proposed Speer as Minister, if he had not been considered an honest and unpolitical expert in Germany and abroad? Is not merely the fact, that he, as one of the closest collaborators of Hitler, was chosen for this post, a further proof for the high respect which the opposition thus paid him?

(Doc. 3569-PS, p.87 Document Book)

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Honorable Judges,

Let me say a few more fundamental words about the SPEER case itself. When the defendant took over the office of Minister at the age of 36, his country was in a life and death struggle. He could not evade the task with which he had been charged. He devoted his entire energy to the solution of the task, which seemed almost unsolvable. The successes which he obtained there did not cloud his view to the actual condition of things. Too late he realized that Hitler was not thinking of his people, but only of himself. In his book "Mein Kampf" HITLER wrote the the government of a people always had to remain conscious of the fact that it could not plunge the people into disaster. Its duty was rather to resign at the right time, so that the people could continue to live. Naturally, such principles were valid to Herr HITLER only for governments in which he had no part./ For himself, however, he was of the point of view that if the German people should lose this war, they would have proved themselves the weaker ones and would no longer have any right to live. In contrast to this brutal egoism, SPEER had preserved the feeling that he was the servant of his people and his nation. Without consideration for his person and without consideration for his safety, SPEER acted as he considered it his duty towards his people to act. SPEER had to betray HITLER, in order to remain faithful to his people. Nobody will be able to withhold his respect from the tragedy which lies in this fate.